

South Worcestershire Councils

# Community Infrastructure Levy Draft Charging Schedule

Consultation Document



V1.5 – 20.11.23

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## 1. Background

1.1 This document is for consultation between 29 January 2024 and 11 March 2024. Documents can be viewed on the south Worcestershire websites, or hard copies can be viewed in the following locations:

<b>Malvern</b>	<b>Worcester</b>	<b>Wychavon</b>
<b>Malvern Customer Service Centre / Library</b> Graham Road, Malvern, WR14 2HU	<b>Customer Service Centre, Guildhall</b> High Street, Worcester, WR1 2EY	<b>Pershore Civic Centre,</b> Queen Elizabeth Drive, Pershore, WR10 1PT
<b>Tenbury Wells Customer Service Centre / Library</b> 24 Teme Street, Tenbury Wells, WR15 8AA	<b>Worcester Library</b> The Hive, Sawmill Walk, The Butts, Worcester, WR1 3PB	<b>Pershore Library,</b> Church Street, Pershore, WR10 1DT
<b>Upton-upon-Severn Customer Service Centre / Library</b> School Lane, Upton on Severn, WR8 0LE	<b>St Johns Library</b> Glebe Close, St Johns, Worcester, WR2 5AX	<b>Evesham Community Centre / Library</b> Oat Street, Evesham, WR11 4PJ
	<b>Warndon Library,</b> The Fairfield Centre, Carnforth Drive, Worcester, WR4 9HG	<b>Droitwich Spa Community Contact Centre / Library</b> Victoria Square, Droitwich Spa, WR9 8DQ
		<b>Broadway Library,</b> Leamington Road, Broadway, WR12 7DZ

1.2 Comments can be made to [SWDP@worcester.gov.uk](mailto:SWDP@worcester.gov.uk) / [policy.plans@malvernhills.gov.uk](mailto:policy.plans@malvernhills.gov.uk), or submitted by post to Planning Policy, The Civic Centre, Queen Elizabeth Drive, Pershore, WR10 1PT. Comments must be submitted in writing.

1.3 In 2010 the Government introduced the Community Infrastructure Levy (CIL) as the preferred mechanism for securing development contributions towards infrastructure to support growth in an area.

1.4 CIL is a charge on specified types of development to contribute to the infrastructure needed to support development and the sustainability of the development plan. The charge provides a greater level of certainty to developers and landowners regarding their contributions and is charged per net square metre of new development. Further information on the types of development liable for the levy are detailed in the sections below.

- 1.5 The South Worcestershire Councils (SWCs), comprising of Malvern Hills District, Worcester City and Wychavon District Councils adopted individual Charging Schedules in 2017 . The decision to introduce CIL was taken by the SWCs to contribute towards the funding required to deliver the joint South Worcestershire Development Plan (SWDP).
- 1.6 This Draft CIL Charging Schedule had been updated to reflect new viability evidence supporting the SWDP Review. The 2010 CIL regulations (as amended) require consultation on a Draft Charging Schedule prior to submitting it to the Secretary of State for examination. The Consultation is running between the 29 January and the 11 March 2024 and is expected to be implemented by the end of 2024. This is to allow the charging schedule to be consistent with, and support the implementation of, the SWDP Review, as set out In the National Planning Practice Guidance(NPPG) ([Community Infrastructure Levy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/community-infrastructure-levy) Paragraph: 011 Reference ID: 25-011-20190901).
- 1.7 Although charging schedules are not formally part of the relevant plan, charging schedules and relevant plans should inform and be generally consistent with each other. Therefore, the NPPG states that *‘where practical, there are benefits to undertaking infrastructure planning for the purpose of plan making and setting the levy at the same time’* (Paragraph: 012 Reference ID: 25-012-20190901).

## 2. Introduction

- 2.1 Each of the three councils in the SWCs are classed as charging authorities and therefore may charge CIL in respect of their own district. The adopted CIL rates have been in place since June (Wychavon and Malvern Hills) and September (Worcester) 2017 and there has been no demonstrable adverse impact on the supply of development land or the viability of development coming forward across the SWCs. Despite this, there have been changes to sales values and build costs since the Charging Schedule was adopted.
- 2.2 Amendments to the Community Infrastructure Levy Regulations (2010) were introduced in September 2019, with the main significant changes including the removal of pooling restrictions for Section 106 (S106) obligations; removal of the requirement for a Regulation 123 list; and the introduction of the requirement to annually produce an Infrastructure Funding Statement which must include a list of infrastructure projects that CIL might be spent on.
- 2.3 The SWCs submitted their joint South Worcestershire Development Plan Review to the Planning Inspectorate for independent Examination on 27 September 2023 with proposed adoption in December 2024. It is therefore timely for the SWCs to consult on amendments to its adopted CIL Charging Schedules in line with the infrastructure requirements of the emerging plan as well as the amendments to the CIL Regulations.
- 2.4 Preparation of the Charging Schedule is supported by several evidence documents that have been submitted to the Planning Inspectorate for examination as part of the SWDPR Review. This includes the Infrastructure Delivery Plan (IDP) (September 2022) that sets out the infrastructure requirements to support the delivery of planned development. The IDP is a living document, and therefore will likely need to be updated. Alongside changes to the IDP, the market is variable and will also be monitored, leading to review of the Charging Schedule in the future.
- 2.5 Aspinall Verdi have produced a series of evidence reports on behalf of the SWCs which are of relevance and include:
- a. The SWDP Review and CIL Viability Assessment (July 2022) which evaluates the financial viability of the plan and reviews the CIL charging schedules. This was to ensure that the cumulative impact of the Local Plan policies is viable and provide evidence of whether CIL should be charged for residential housing and to what extent;

- b. The South Worcestershire Retail and Commercial CIL Viability Assessment (August 2022) provides evidence of whether CIL should be charged for certain types of retail and commercial uses and to what extent;
  - c. The SWDP Review Strategic Site Viability Assessment (July 2022) provides evidence of whether CIL should be charged for strategic sites and to what extent; and
  - d. The SWDP Review CIL Viability Assessment of Express Retail and Student Accommodation (October 2023) provides further evidence of whether CIL should be charged on brownfield student accommodation and small express retail development on both brownfield and greenfield land.
- 2.6 All of the submission documents can be found on the SWDP Review / Examination website: [SWDP Publication Regulation 19 Evidence Reports - South Worcestershire Development Plan \(swdevelopmentplan.org\)](https://www.swdevelopmentplan.org)

### 3. CIL and S106 and S278 agreements

3.1 Section 106 (S106) agreements and Section 278 Highways Agreements will continue to be used to secure mitigation, affordable housing, open space provision and education and health facilities following the CIL review. The amended CIL regulations no longer contain a pooling restriction to a maximum of five S106 obligations to fund a specific piece of infrastructure. Both CIL and S106 funding can be secured against the same development, however, there will be no instance where both CIL and S106 will contribute towards the same piece of infrastructure. All projects proposed to be wholly or partially financed via CIL will be assessed via an established method and set of criteria.

3.2 Site specific planning obligations under S106 must satisfy three legal tests (in accordance with Regulation 122); they must be:

1. Necessary to make the development acceptable in planning terms;
2. Directly related to the development; and
3. Fairly and reasonably related in scale and kind to the development.

3.3 To ensure that developers are not being asked to fund the same infrastructure through both CIL and S106 agreements, certain types of infrastructure will only be sought either on site or through financial contributions via S106. A list of general types of infrastructure which is expected to be sought via S106 rather than CIL is shown below, and were viability tested on S106 assumptions:

- Affordable Housing;
- Education;
- Green Infrastructure including Areas of Informal Recreation;
- AONB Impact;
- Health (Primary and Secondary);
- Waste;
- New Community Facilities;
- Transport;
- Police;
- Flood and Water management; and
- Site specific mitigation.

#### 4. Viability and rate setting

4.1 In order to establish levy rates across the SWCs, the councils commissioned Aspinall Verdi to carry out a review of viability across the districts, examining the cumulative impacts of the policies in the SWDP Review and CIL. This review and further work on Strategic Site viability and retail and commercial viability was undertaken to assess the effect that any revised CIL rates would have on development viability. The outputs from these assessments are detailed in the relevant documents set out in section 2.5 above.

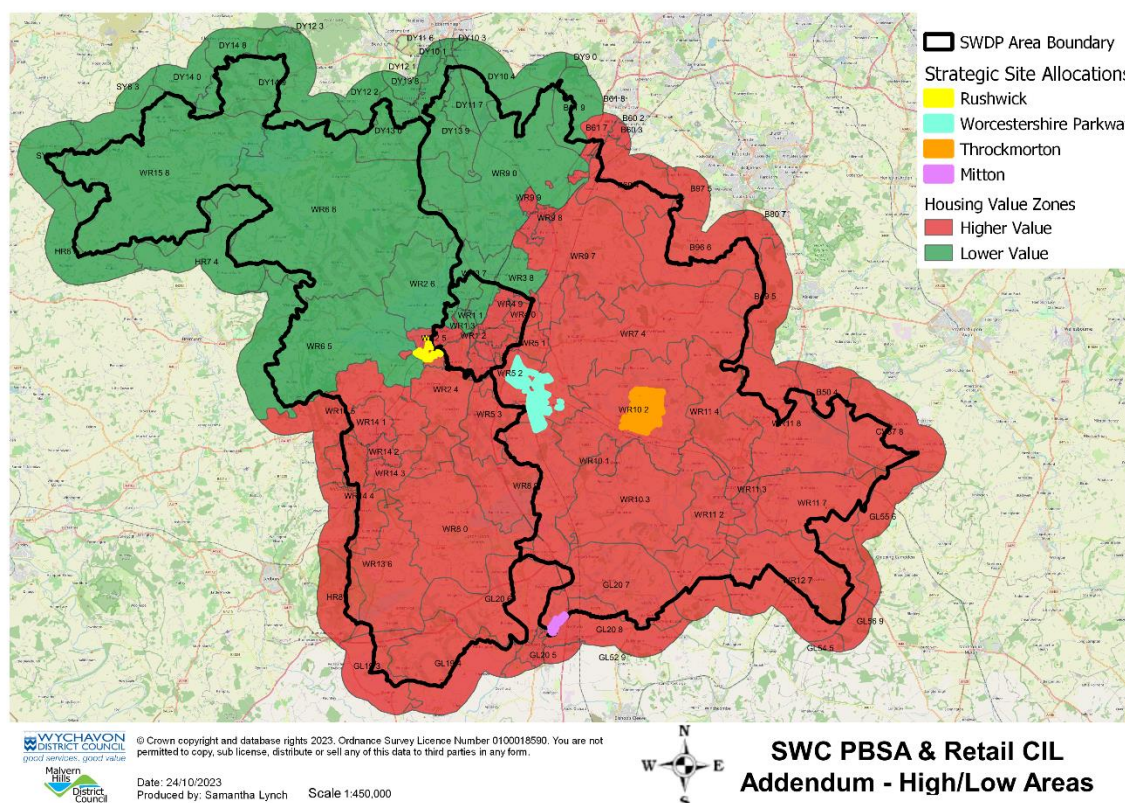
4.2 Full policy compliance is the default position when considering development viability and setting appropriate benchmark land values as set out in the NPPG ([Viability](#)) Paragraph: 012 Reference ID: 10-012-20180724. This includes the funding of infrastructure through CIL and Section 106 obligations, affordable housing and on-site policy requirements.



## 5. CIL Charging Maps

5.1 The SWDP Review contains four strategic sites which will be charged £0 per m<sup>2</sup>. These are shown in Map 1 below. Future allocated sites of 1000 or more dwellings will also be charged £0 per m<sup>2</sup>. Strategic sites in the SWDP Review should be providing required infrastructure on site and further costs would make these developments unviable.

5.2 Aspinall Verdi determined that there are two geographical areas within south Worcestershire for housing values, the northern part being a lower value area, and the southern part being a higher value area. Map 1 below shows the delineation of these two areas in south Worcestershire. Please note that these higher and lower value areas are for housing developments only.



Map 1: Map of the higher and lower value areas in south Worcestershire and locations of the strategic sites in the SWDP Review

## 6. CIL Rates

6.1 The CIL regulations allow for the setting of differential rates (including zero rates) for different geographical areas or for different land uses across our charging areas. The CIL regulations also provide for the ability to set differential rates in relation to scales of development.

6.2 The CIL charges for residential development are shown below in Table 1 and are based on the recommendations from the CIL Viability Reports. Residential development will be charged based on whether the development is on greenfield or brownfield land, as well as on the geographical location of the development in terms of its location in a higher or lower value area (detailed in Section 6 below).

Table 1: Proposed CIL rates

Type of development	Current charge per sqm	Proposed higher value	Proposed lower value
Housing Greenfield (<9 units) (Including RDAs)	£43.27	£150.00	£100.00
Housing Greenfield (10+ units or sites 0.5ha+) (including RDAs)	£43.27	£150.00	£100.00
Housing Brownfield (<9 units) (including RDAs)	£0.00	£45.00	£0.00
Housing Brownfield (10+ units or sites 0.5ha+) (including RDAs)	£0.00	£45.00	£0.00
Higher density flatted development Brownfield	£0.00	-	£0.00
Purpose Built Student Accommodation (PBSA) Greenfield	£108.17	£110.00	£110.00
Purpose Built Student Accommodation (PBSA) Brownfield	£108.17	£110.00	£110.00
Age restricted / sheltered housing Greenfield	£0.00	£150.00	£100.00
Age restricted / sheltered housing Brownfield	£0.00	£45.00	£0.00
Extra care / assisted living Greenfield	£0.00	£150.00	£0.00
Extra care / assisted living Brownfield	£0.00	£45.00	£0.00
Strategic sites (and allocated sites over 1,000 units)	£0.00	£0.00	£0.00

- 6.3 The viability work tested sites which were on greenfield and brownfield land, as well as sites in Rural Designated Areas (RDAs). This was to ensure there was sufficient evidence that the proposed CIL charges were robust for all residential developments across south Worcestershire.
- 6.4 Further work was undertaken by Aspinall Verdi on Purpose-Built Student Accommodation in October 2023, which concluded that the existing rate of £110 should be retained. The viability evidence shows that these types of development may be unviable, however, although it is reporting as unviable developments have come forward at this set rate.
- 6.5 Higher density flatted typologies in the lower value zone on brownfield land were tested and found to be unviable, therefore it is not appropriate to seek CIL on these types of sites. It is recommended that for higher density flatted schemes a viability appraisal is submitted to allow EUV and vacant building credit to be factored in before negotiations on S106 and affordable housing requirements take place.
- 6.6 No other areas of higher density flatted typologies were tested as these are highly unlikely to come forward.
- 6.7 All of the strategic sites were tested and shown to be viable (July 2022) based on a policy compliant 40% affordable housing whilst allowing for the relevant cost per unit total strategic infrastructure and S106 (excluding CIL – CIL exempt). Although there is headroom to charge CIL, it is important for delivery that the infrastructure is funded through the most appropriate mechanism. S106 agreements enable more flexibility (especially in two-tier authorities) for the delivery of infrastructure compared to CIL. This is particularly the case where there is uncertainty in respect of the strategic infrastructure costs due to the stage of design. It is therefore proposed that the CIL charging Schedule excludes all allocated sites over 1,000 units which will ensure the Charging Schedule is 'future-proofed'.
- 6.8 The CIL charges for retail and commercial development are shown below in Table 2 and are based on the recommendations from the CIL Viability Reports.

Table 2: Proposed CIL rates for retail and commercial development

Type of development	Current charge per sqm	Proposed charge per sqm
Large format / discount format convenience retail	£60.00	£200.00
Small (express) convenience retail	£60.00	£60.00
Office use	£ 0.00	£ 0.00
Industrial / logistics use	£ 0.00	£ 0.00

6.9 Large format / discount format convenience retail development is proposed to be charged up to £200 per square metre (psm). It was suggested that the increase in charge is phased, however, due to the Council’s having an instalment policy, as well as the proposed changes being consulted and examined, it is proposed that the increase from £60psm to £200psm charged will not be phased.

6.10 The August 2022 South Worcestershire Retail and Commercial CIL Viability Assessment found that small (express) convenience retail formats were not viable when tested, this was believed to be due to the assumptions in respect of value which have a higher yield (6.5%). Aspinall Verdi recommended that the CIL rate of £60 psm should be retained and suggested further research and consultation be undertaken to review the value assumptions. Most new-build small convenience stores are developed by major supermarket chains and therefore a stronger yield is expected. The sensitivity tables show that a 20% increase in value, which only requires a small yield shift to 5.85%, would enable the existing CIL rate to be viable.

6.11 Further work was undertaken by Aspinall Verdi on small express retail in October 2023, concluded that any CIL rate would be unviable. Despite this, the council will continue to charge CIL at £60 psm, as developments of this type have come forward and paid CIL. Small express retail has come forward at the existing CIL rate, meaning that although tested as unviable, this does not take into account whether they are independent, or are part of larger corporations.

## 7. Calculating the chargeable amount

7.1 The council will calculate the amount of CIL chargeable to qualifying development utilising the formula set out in the 2010 CIL Regulations (as amended). In summary the amount of CIL chargeable will be calculated as follows:

$$\frac{\text{CIL Rate} \times \text{Chargeable Floor area (m}^2\text{)} \times \text{RICS CIL Index (Ip)}}{\text{RICS CIL Index (Ic)}}$$

*(Ip) = index figure for the calendar year in which planning permission was granted*

*(Ic) = index figure for the calendar year in which the charging schedule took effect*

7.2 Further detail on calculating the amount due is contained in the 2010 CIL Regulations (as amended). [The Community Infrastructure Levy Regulations 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## 8. CIL Implementation and Payments

8.1 The Levy rate is expressed as a £ per m<sup>2</sup> charge (gross internal area) within south Worcestershire. The levy **will be** applied to:

- buildings into which people normally go;
- new build floor space of at least 100 square metres;
- the creation of a new dwelling (even if the floor space is less than 100 square metres); and
- the conversion or change of use of a building that is no longer in lawful use.

Development still needs to include 100 square metres or more new floorspace or the creation of a new dwelling. If a building is still in lawful use, CIL is only payable on the additional new floorspace after factoring in the existing floorspace that can be offset against the new floorspace (even if the total is under 100 square metres).

8.2 The Levy may also apply to development permitted by a 'general consent' (including permitted development) commenced on or after 6 April 2013.

8.3 Development **will not be** liable for CIL if it:

- involves any change or use, conversion or subdivision of, or creation of mezzanine floors within a building which has been in lawful use for at least six months in the 3 years prior to the development being permitted and does not create any new build floorspace; or
- is for a building into which people do not normally go, or only go intermittently for the purpose of inspecting or maintaining fixed plant or machinery; or
- is for a structure which is not a building, such as pylons or wind turbines; or
- is for a use which benefits from a zero or nil charge (£0 psm) as set out in a CIL Charging Schedule.

8.4 Where buildings are demolished to make way for new buildings, the Levy charge will be based on the floorspace of new buildings less the floorspace of the demolished buildings (provided the buildings were in lawful use prior to demolition).

8.5 The CIL regulations state that affordable housing and charitable development (developed by a registered charity for charitable purposes), as well as self-build residential properties, are non-chargeable, provided exemption is sought from CIL. Additional exemption / relief claim forms may be required by the Charging Authority. Affordable housing will continue to be secured via S106 agreements.

## 9. Spending CIL and Reporting

9.1 The 2010 CIL Regulations (as amended) require all local planning authorities that issue a CIL liability notice or enter S106 planning obligations during a reporting year to publish an Infrastructure Funding Statement (IFS) at least annually. The IFS should, as a minimum, include the information set out in Schedule 2 of the 2010 CIL Regulations (as amended). This includes reporting on the amount of CIL collected, allocated, unallocated and spent for the reported year, and the amount of CIL passed onto Parish Councils as well as the total amount of CIL collected, allocated and unallocated before the reported year. As part of the IFS a list of items of infrastructure is required to identify the quantum of CIL allocated or spent on each item.

9.2 Each of the three local planning authorities in south Worcestershire publish an IFS individually, as required by the regulations by the close of each year. Although CIL is collected by each council individually, the total amount of CIL is pooled and each IFS details the amount collected for the three councils.

9.3 For further information, the IFS for each council is available on their websites.

Malvern Hills District Council - [Community Infrastructure Levy - Malvern Hills District Council](#)

Worcester City Council - [Developer Contributions - Worcester City Council](#)

Wychavon District Council - [Community Infrastructure Levy - Wychavon District Council](#)

## 10. Instalments Policy

10.1 The levy is non-negotiable and is payable to the relevant charging authority on commencement of development or, for large development, over an agreed phased period as set out in the instalments policy in Appendix A.

10.2 Under section 70 of the 2010 CIL Regulations (as amended) payment by instalment is provided for where an instalments policy is in place, provided this is published on the charging authorities' website. An instalment policy can assist the viability and delivery of development by taking account of financial restrictions, such as may be encountered in the development of homes within the buy-to-let sector. Few, if any, developments generate value until they are completed either in whole or in phases. The council may revise or withdraw the instalments policy if they consider this to be necessary.

## 11. Percentage to neighbourhoods / Neighbourhood Funds

11.1 Where CIL exists, 15% or 25% of levy receipts will be passed onto parish or town councils, in a neighbourhood proportion, which will then have control over how it is spent (a 25% share is dependent on a neighbourhood plan being in place). In un-parished areas (applicable to some areas of Worcester City), the 15% of levy receipts will be held by the charging authority, who should then engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. For areas with no neighbourhood plan, the 15% share is capped at £100 per existing council tax dwelling per year. For areas with an adopted neighbourhood plan, the 25% share of levy receipts is uncapped. Figure 1 below provides a summary of the differing levy receipt permutations.

Figure 1: Relationship between the levy and neighborhood plans in England

Parish council	Neighbourhood plan	Levy
✓	✓	25% uncapped, paid to parish each year
✓	X	15% capped at £100/dwelling (indexed for inflation), paid to parish each year
X	✓	25% uncapped, local authority consults with community about how funds can be used, including to support priorities set out in neighbourhood plans
X	X	15% capped at £100/dwelling (indexed for inflation), local authority consults with community to agree how best to spend the neighbourhood funding

Source: National Planning Practice Guidance Paragraph: 145 Reference ID: 25-145-20190901

11.2 Whilst CIL receipts are generally required to be spent on infrastructure-specific items, the neighbourhood portion can be spent on a wider range of things than the rest of the levy, if it meets the requirement to ‘support the development of the area, or any part of that area’ (2010 CIL Regulations (as amended) section 59C).



## 12. Review

- 12.1 Over the coming years, values and costs of development could change significantly and the market could become more certain or indeed more uncertain. It is difficult to predict how and when such changes may happen. It will therefore be important to monitor the market and review the Levy as appropriate.

## 13. Sustainability

- 13.1 The CIL charging schedule does not require a Sustainability Assessment as it is a financial document rather than a 'land use planning' document. The planned development, including infrastructure to be funded through CIL are evidenced and tested as part of the SWDP Review.

## Appendix A

In accordance with Regulation 69B of the CIL Regulations 2010 (as amended) the charging authorities have produced a CIL Instalments Policy. This allows persons liable to pay CIL to do so by instalments provided they have complied with the relevant regulations. The time that the first instalment payment is due is calculated from the date the development is commenced. The existing Instalments Policy was introduced on 5 June 2017, and it is not proposed to amend this.

Total amount of CIL Liability	Number of instalments	Payment Periods and Proportion of CIL due			
Any amount less than £50,000	None	Total amount payable within 60 days of commencement of development			
		1 <sup>st</sup> instalment	2 <sup>nd</sup> instalment	3 <sup>rd</sup> instalment	4 <sup>th</sup> instalment
Amounts from £50,000 to £249,999	Two	50% payable within 60 days of commencement of development	50% payable within 6 months of commencement of development		
Amounts from £250,000 to £1,000,000	Three	30% payable within 60 days of commencement of development	30% payable within 6 months of commencement of development	40% payable within 9 months of commencement of development	
Any amount greater than £1,000,000 - In principle CIL can be paid in 4 instalments for any amount greater than £1,000,000. However instalments will be open to negotiation on an individual basis	Four	25% payable within 60 days of commencement of development	25% payable within 6 months of commencement of development	25% payable within 9 months of commencement of development	25% payable within 18 months of commencement of development